



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/642,851

08/18/2003

Anne M. Pianca

AB-334U

4016

23845 7590 02/12/2007
ADVANCED BIONICS CORPORATION
25129 RYE CANYON ROAD
VALENCIA, CA 91355

EXAMINER

ALTER, ALYSSA M

ART UNIT

PAPER NUMBER

3762

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

02/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/642,851

Applicant(s)

PIANCA ET AL.

Examiner

Alyssa M. Alter

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5,7,10-13 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 2,5,7,12,13,15 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 10,11 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments and amendments, see page 12, filed June 6, 2006, with respect to the rejection(s) of claim(s) 2, 5, 7, 10-13, 15-24 under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) have been considered but are moot in view of the new ground(s) of rejection in view of Baudino et al. (US 5,927,277).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Baudino et al. (US 5,927,277). Baudino et al. discloses an apparatus and method for securing a medical device within a burr hole. "A typical electrical brain stimulation system comprises a pulse generator operatively connected to the brain by a lead having at its distal end an electrode designed to be implanted within the brain, and having at its proximal end a connector assembly designed to connect to the pulse generator"(col. 1, lines 15-19).

As to claim 17, the examiner considers the lock, 90, to clamp the lead to the reference platform.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Baudino et al. (US 5,927,277), or in the alternative, under 35 U.S.C. 103(a) as obvious over Baudino et al. (US 5,927,277). The limitations for a paddle electrode connector in claims 10-11, are vague and not positively recited. Furthermore, there are several different types of paddle electrode connectors and since the device of Baudino et al. has a connector, Baudino et al. is capable of being used as a paddle connector.

In the alternative, Baudino et al. discloses the device substantially as claimed but fails to teach a paddle electrode connector. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lead to include a paddle electrode connector since paddle electrodes are well known in the stimulation art for stimulating a surface area with minimal space, particularly in the brain or skull.

2. Claims 18-20 are rejected under 35 U.S.C. 103(a) as obvious over Baudino et al. (US 5,927,277). Baudino et al. discloses the claimed invention but does not disclose expressly securing the lock to the lead through clamping, pinching, suturing or piercing means. It would have been an obvious matter of design choice to a person of ordinary skill in the art to modify securing the lock to the lead as taught by Baudino et al., with

Art Unit: 3762

the clamping, pinching, suturing or piercing means, because Applicant has not disclosed the other securing means provides an advantage, is used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected the Applicant's invention to perform equally well with securing the lock to the lead as taught by Baudino et al., because both means lock the lead in position to prevent unwanted movement of the lead.

Therefore, it would have been an obvious matter of design choice to modify the securing means of the lock to the lead to obtain the invention as specified in the claim(s).

Claim Objections

1. Claim 5 has objected to because of the following informalities: The amendment dated 7/6/06, appeared to incorporate the entire parent claim in order to overcome a previously stated rejection. While claim 5, has been indicated as allowable subject matter, the examiner notes that there is a claim objection due to the incomplete incorporation of the parent claim. The examiner notes that claim 5 should recite the limitation "extends through the cannula slit". However the limitation presently recites "extends through the cannula" and "slit" is omitted. Since this appears to be a typographical error, the examiner considers claim 5 to be allowable pending the complete incorporation of the parent claim limitation. Appropriate correction is required.

Allowable Subject Matter

1. Claims 2, 5, 7, 12-13, 15 and 21-24 are allowed. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or reasonably suggest a deep brain stimulation system where the elongated medical device does not extend through the offset portion, in combination with the other elements in the claims.

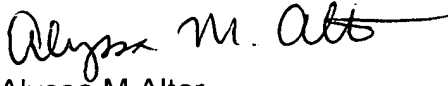
While claim 5, has been indicated as allowable subject matter, the examiner notes that there is a claim objection due to the incomplete incorporation of the independent claim 1 limitations set for in the previous claims dated 2/24/06.


Art Unit: 3762

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alyssa M Alter
Examiner
Art Unit 3762


George EVANISRO
Primary
2/5/7